

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, CA 94105

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

RH01018047

SUBJECT OF HEARING:

The Insurance Commissioner proposes to amend and adopt the regulations as described below after considering comments from the public. The Commissioner proposes to amend Title 10, Chapter 5, Subchapter 9, Article 2 of the California Code of Regulations. The proposed amendments and additions govern the functions and objectives of insurer fraudulent investigative claims units, commonly called "Special Investigative Units" ("SIU" or "SIUs") and the function and objectives of the California Department of Insurance (CDI) in monitoring the SIUs.

AUTHORITY AND REFERENCE:

The Insurance Commissioner proposes to adopt repeal and amend specified portions of the subject regulations under the authority of California Insurance Code Section 1875.20, 1875.21, 1875.22, 1875.23, 12921 and 12926.

HEARING DATE, TIME AND LOCATION:

Date: November 3, 2004
Time 10:00 AM – 4:00: PM
Location 300 Capitol Mall
6th Floor Conference Room [Room 635]
Sacramento, CA. 95814

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS:

Debra A. Chaum
California Department of Insurance, Legal Division
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415)538-4115

DEADLINE FOR WRITTEN COMMENTS:

All written materials [including e-mail transmissions] must be received by the Insurance Commissioner, addressed to the contact person and address designated above, no later than 5:00 p.m. on November 3, 2004. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE:

The Commissioner will accept written comments transmitted by e-mail provided that they are sent to the following e-mail address: chaumd@insurance.ca.gov.

ACCESS TO HEARING ROOMS:

Please contact the contact person designated above.

ADVOCACY OR WITNESS FEES:

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees or other reasonable expenses in accordance with the provisions of Title 10, Subchapter 4.5. Interested persons should contact the Office of the Public Advisor at the following address to inquire about appropriate procedures:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, California 95814

INFORMATIVE DIGEST:

SUMMARY OF EXISTING REGULATIONS AND POLICY STATEMENT OVERVIEW:

California Insurance Code Section 1875.20 requires that every insurer admitted to do business in the state shall maintain a unit or division to investigate possible fraudulent claims by insureds or by persons making claims for services or repairs against policies held by insureds. These units are referred to as Special Investigative Units, or alternatively, SIUs.

Section 1875.21 states that insurers may maintain the SIU using its own employees or by contracting with others for that purpose.

Section 1875.22 states that insurers shall establish the SIU no later than July 1, 1992.

Section 1875.23 states that the “unit or division” may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. The statute goes on to state that expenses incurred in creating a distinct unit, hiring new employees, or contracting with another entity to fulfill the SIU requirements are included as an administrative expense for rate setting purposes.

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of

the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is set forth below.

The Commissioner has determined that the adoption of regulations is necessary in order to effectively administer California Insurance Code Sections 1875.20-1875.23. The regulations proposed herein would do the following:

- 1) Define the terms “authorized governmental agency”, “claims handler”, “commissioner”, “communication”, “department”, “fraud division”, “insurer”, “integral anti-fraud personnel”, “reasonable belief”, “red flag” or “red flag event”, “regulations”, “special investigative unit”, “suspected insurance fraud” and “The Insurance Frauds Prevention Act” or “(IFPA)”.
- 2) Specify the responsibility of insurers under California Insurance Code Sections 1875.20-23.
- 3) Specify the adequacy and knowledge required of insurers’ staff for compliance with California Insurance Code Sections 1875.20-23.
- 4) Specify insurers’ responsibilities when contracting with another entity for purposes of compliance with California Insurance Code Sections 1875.20-23.
- 5) Specify the appropriate manner for communication with the Fraud Division and authorized governmental agencies.
- 6) Specify the appropriate method for detecting suspected insurance fraud.
- 7) Specify the requisite features of a complete investigation of suspected insurance fraud.
- 8) Specify the appropriate manner in which referrals of suspected insurance fraud shall be made to the Fraud Division.
- 9) Specify the requisite information for a referral of suspected insurance fraud to the Fraud Division.
- 10) Specify the content of anti-fraud training.
- 11) Specify the content of records that insurers must maintain regarding the anti-fraud training provided.
- 12) Specify the requirements for the maintenance and retention of an annual report concerning compliance with California Insurance Code Sections 1875.20-23.
- 13) Specify the requisite contents of the insurers’ annual reports concerning compliance with California Insurance Code Sections 1875.20-23.
- 14) Specify the ability of the Insurance Commissioner to conduct examinations an insurer’s SIU and related operations.
- 15) Specify that a written report of an examination will be provided to the insurer upon completion of the examination.
- 16) Specify the appropriate methods for an insurer to respond to an examination report.
- 17) Specify the penalties imposed for noncompliance with California Insurance Code Section 1875.20-23 and/or these regulations.

EFFECT OF PROPOSED ACTION:

The major effects of the regulations are as follows:

Proposed Section 2698.30(a)

Proposed Section 2698.30(a) defines “authorized governmental agency” by referencing the Insurance Frauds Prevention Act (“IFPA”). The IFPA’s use of the term “authorized governmental agency” depends on the subject of the article in which it is used and defined. In Article 4, which applies to motor vehicle insurance fraud, the term encompasses the Department of the California Highway Patrol, The Department of Insurance, the Department of Justice, the Department of Motor Vehicles, the police department of a city, or a city and county, the sheriff’s office or department of a county, a law enforcement agency of the federal government, the district attorney of any county, or city and county, and any licensing agency governed by the Business and Professions Code. In Article 5, which applies to arson investigations, “authorized agency” includes the State Fire Marshal, the Director of the Department of Forestry and Fire Protection, the chief of any city or county fire department, the chief of any fire protection district, the Attorney General, any district attorney, or any peace officer, the Department of Insurance, and any federal agency. Article 7, workers’ compensation insurance fraud reporting, defines “authorized governmental agency” as the district attorney of any county, the Office of the Attorney General, the Department of Insurance, the Department of Industrial Relations, and any licensing agency governed by the Business and Professions Code. As such, there is not single definition of “authorized governmental agency.” The proposed regulations encompass these different definitions by referencing the IFPA. This section thus provides a clear definition of a term that has different meanings and informs insurers what the term means regardless of its context.

Proposed Section 2698.30(b)

Proposed Section 2698.30(b) defines “claims handler” as every employee and agent of an insurer whose principal responsibilities include the investigation, adjustment, settlement and resolution of claims. Insurers will use this definition to determine which employees are encompassed by the regulations’ use of the term. Usage of the term is used in relation to integral anti-fraud personnel within the regulations. This definition accurately reflects the use of the word within the insurance industry.

Proposed Section 2698.30(c)

Proposed Section 2698.30(c) defines “Commissioner” as the Insurance Commissioner of the State of California. This definition specifies the meaning of a term used throughout the regulations.

Proposed Section 2698.30(d)

Proposed Section 2698.30(d) defines “Communication” as including the referral of suspected insurance fraud to the Department of Insurance and providing information and documents requested by the Fraud Division. This definition prevents an interpretation of “communication” that is broad in scope that would inundate the Department with unnecessary communication.

This definition adequately covers those communications that are necessary to enforcement of the regulations and the prevention of fraud.

Proposed Section 2698.30(e)

Proposed Section 2698.30(e) specifies that “Department” means the California Department of Insurance. The term is used throughout the regulations but the IFPA also references governmental departments other than the Department of Insurance. This definition avoids confusion as to which department the term refers.

Proposed Section 2698.30(f)

Proposed Section 2698.30(f) clarifies that “Fraud Division” refers to the California Department of Insurance Fraud Division formerly known as the Bureau of Fraudulent Claims. The Bureau of Fraudulent Claims was designated the Fraud Division subsequent to the publication of California Insurance Code Sections 1875.20 et seq. on October 1, 1992. This definition clarifies that “Fraud Division” has the same meaning as “Bureau of Fraudulent Claims” as used throughout the IFPA to create continuity between the proposed regulations and the IFPA.

Proposed Section 2698.30(g)(1)

Proposed Section 2698.30(g)(1) defines the scope of “insurer” to exclude reinsurers because reinsurance does not have the serious problems of fraud that other types of insurance in the State of California have and which require these regulations to alleviate. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(g)(2)

California Insurance Code Section 12400.1 states that title insurance is not subject to Sections 1875.20-23. Therefore, proposed Section 2698.30(g)(2) defines the scope of “insurer” to exclude title insurers. This definition informs title insurers that they do not fall within the scope of the term and thus the regulations. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(g)(3)

The Insurance Code exempts fraternal fire insurers from these regulations in Sections 9080 and 9080.1. Therefore, proposed Section 2698.30(g)(3) defines the scope of “insurer” to exclude fraternal fire insurers. This definition informs fraternal fire insurers that they do not fall within the scope of the term and thus the regulations. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(g)(4)

The Insurance Code exempts fraternal benefit societies from these regulations in Section 10970. Therefore, proposed Section 2698.30(g)(4) defines the scope of “insurer” to exclude fraternal benefit societies. This definition informs fraternal benefit societies that they do not fall within the scope of the term and thus the regulations. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(g)(5)

The Insurance Code exempts firemen, policemen, or peace officer benefit and relief associations from these regulations in Section 11400. Therefore, proposed Section 2698.30(g)(5) defines the scope of “insurer” to exclude firemen, policemen, or peace officer benefit and relief associations. This definition informs these associations that they do not fall within the scope of the term and thus the regulations. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(g)(6)

The Insurance Code exempts grant and annuity societies from these regulations in Section 11524. Therefore, proposed Section 2698.30(g)(6) defines the scope of “insurer” to exclude grant and annuity societies. This definition informs grant and annuity societies that they do not fall within the scope of the term and thus the regulations. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(g)(7)

California Insurance Code Section 12742 only permits those sections of the Insurance Code listed in Section 12743 to apply to home protection. Sections 1875.20-23 do not appear in Section 12743 and thus home protection is exempt from these regulations. Therefore, proposed Section 2698.30(g)(7) defines the scope of insurer to exclude home protection. This definition informs relevant parties that home protection does not fall within the scope of the term and thus the regulations. This definition also avoids the application of other definitions of “insurer” in the IFPA Sections 1872.2, 1874.1, 1875 and 1877.1 of the IFPA. The definition in this proposed section has been tailored for these regulations and no other definition should apply.

Proposed Section 2698.30(h)

Proposed Section 2698.30(h) sets forth a definition of the term “integral anti-fraud personnel” used in these regulations. This definition is part one of the on-going responsibilities of an insurer for compliance with these regulations. This definition includes personnel who the insurer has not identified as being directly assigned to its SIU but whose duties may include the processing, investigation, or litigation pertaining to payment or denial of a claim or application. The Section provides examples of employees that fall within this definition. This definition provides insurers with clear guidelines on determining which of their employees may be considered “integral anti-fraud personnel” for purposes of compliance with these regulations. This section identifies those employees who will be handling claims and thus forward cases of suspected insurance fraud to the SIU. Identification of these persons will allow for adequate training.

This makes some changes to the language of the emergency regulations. The proposed section deletes the words “receipt” and “agents” from the emergency regulations. The deletion of the word “receipt” reflects the fact that the receipt of a claim or application is commonly a clerical function that does not involve any analysis of a claim or application. Conversely, the deletion of the word “agents” recognizes that its inclusion may result in the section having too broad of a scope. Agents may include soliciting agents, general agents, or independent agents. Even agents of the same type have different duties that may not bring them in contact with claims or applications in the way that would reveal suspected insurance fraud. For these reasons, these two deletions are necessary to realistically define the term “integral anti-fraud personnel.”

This section also adds the words “within the claims function” after the words “call center staff.” This change reflects the reality that not all call center staff will be in the position to detect fraud. This change is thus necessary for a precise definition of the term “integral anti-fraud personnel.”

Proposed Section 2698.30(i)

Proposed Section 2698.30(i) defines “reasonable belief” as a level of belief based on objective facts or inferences therefrom. A reasonable belief standard applies the regulations uniformly. This definition clarifies that when the regulations call for a referral when there is a reasonable belief of fraud, that belief must be based on facts rather than subjective beliefs. A subjective standard would result in inconsistencies between insurers and between individuals within an insurer’s business. The objective standard also ensures that the Department can adequately investigate actual fraud. A subjective standard would inundate the Department with unnecessary reports that will delay the investigation of actual fraud. Alternatively, a subjective standard could lead to less reporting than necessary where an insurer subjectively believes that there is no fraud but where the evidence is indicative that there is actual fraud.

Proposed Section 2698.30(j)

Proposed Section 2698.30(j) defines “red flag” or “red flag event” as facts, circumstances, or events that support an inference of fraud. These terms appear throughout the regulations, often in connection with training for awareness of “red flags” or for the documentation of “red flag” procedure. This definition informs insurers of the type of knowledge that is required when the regulations refer to “red flags” or “red flag events.” This definition is also consistent with the objective standard set by Section 2698.30(i) because they are inferences based upon facts.

Proposed Section 2698.30(k)

Proposed Section 2698.30(l) clarifies that “regulations” means California Code of Regulations, Title 10, Chapter 5, Subchapter 9, Article 2. The term “regulations” is used throughout the regulations and this definition specifies that the term does not refer to any other regulations, unless otherwise noted.

Proposed Section 2698.30(l)

Proposed Section 2698.30(l) defines “Special Investigative Unit” as the fraudulent claims investigation unit referenced in Section 1875.20. This section reiterates California Insurance Code Section 1875.21, by allowing for an insurer to maintain the SIU by using its own employees or by contracting with another entity. This definition makes clear that the SIU is the division necessary for compliance with applicable sections of the IFPA for direct responsibility of performing the functions and activities as set forth in these regulations.

Proposed Section 2698.30(m)

Proposed Section 2698.30(m) defines the scope of “suspected insurance fraud” specifically so that the term does not encompass all suspicion. The regulations refer to “suspected insurance fraud” in the context of training, reporting and investigating. This definition provides insurers with a clear definition of the scope of what “suspected insurance fraud” may mean for the purposes of compliance with these regulations. This section states that the term includes any misrepresentation of fact or omission of fact pertaining to a transaction of insurance. This definition is thus also consistent with other objective standards in the regulations. The inexhaustive list of the types of facts that show suspected insurance fraud, including a pattern in a claim history, provide guidance for insurers on what constitutes suspected insurance fraud. Integral anti-fraud personnel will use this definition as a basis for detection and a SIU will use it as a basis for training anti-fraud personnel.

This section has been changed from the emergency regulations by adding the words “or omission of fact” after the words “misrepresentation of fact.” This change does not add any burden to insurers but merely reflects the reality that an omission of fact can be equally as indicative of fraud as a misrepresentation of fact.

Proposed Section 2698.30(n)

Proposed Section 2698.30(n) clarifies that “The Insurance Frauds Prevention Act” refers to California Insurance Code Section 1871, et seq. This definition provides notice of the Act’s equivalency in meaning with that particular code section and to provide notice of the Act’s location.

Proposed Section 2698.31

Proposed Section 2698.31 implements and makes specific Insurance Code Section 1875.20 by requiring the establishment, operation and continuous existence of an SIU. This provision clarifies that an insurer will continue to have responsibilities even if it contracts with another entity to maintain its SIU. For example, insurers must still file an annual report with the Department even after contracting with another entity to maintain the SIU. That insurers have continuing obligations was implicit in the emergency regulations but it is explicit here.

Proposed Section 2698.32(a)

Section 2698.32(a) informs insurers how to determine the adequacy of a SIU. This section states that adequacy will be determined by the insurer's demonstrated ability to establish, operate, and maintain an SIU that is in compliance with these regulations.

This section adds to the emergency regulations an inexhaustive list of factors to determine when a SIU is adequately staffed to perform the functions required by these regulations. These factors relate to the amount of suspected insurance fraud that can reasonably be expected by an insurer. Adequacy of staffing depends on whether the SIU can handle the number of claims of suspected insurance fraud in a thorough manner that will detect and deter fraud. An insurer will use this section to help determine whether its SIU is adequately staffed to prevent insurance fraud.

Proposed Section 2698.32(b)

Section 2698.32(b) states the requisite knowledge for SIU staff. This section provides insurers with a clear list of subjects, analyses, and pattern a SIU should be familiar with as well as capabilities they should have in order to perform the functions required by these regulations.

Proposed Section 2698.33(a)

Section 2698.33(a) clarifies that the creation of a contract under these regulations does not relieve the insurer of any obligation under these regulations or the IFPA. Numerous obligations continue despite the existence of a contract to maintain a SIU. An insurer's integral anti-fraud personnel, for example, is often in the best position to initially detect fraud. If these insurer employees had no obligation to cooperate with these regulations and the SIU then the SIU's investigation would be significantly more difficult.

Proposed Section 2698.33(b)

Proposed Section 2698.33(b) requires an insurer to provide the Department with a copy of any agreement with another party to create a SIU. This section informs insurers of this obligation. The Department will use this report to ensure that insurers are complying with these regulations and that the regulations are adequately detecting and deterring insurance fraud.

Proposed Section 2698.33(c)(1)

Proposed Section 2698.33(c)(1) makes specific the allowance for a contractual SIU in Section 1875.21 by requiring that all duties and functions of the parties be listed in the contract as well as an explanation of how the insurer will monitor the performance of the contract responsibilities. This section clarifies that the contract must also include the parties' functions pursuant to the terms of their contract. This section informs the contracting parties as well as the Department as to who is obligated to perform which functions pursuant to these regulations. The insurer shall choose the manner in which the contract is monitored because it is a contextual decision based on terms of the parties' agreement.

Proposed Section 2698.33(c)(2)

Proposed Section 2698.33(c)(2) makes specific the allowance for a contractual SIU in Section 1875.21 by prohibiting the inclusion of provisions that could provide disincentives to the referral and/or investigation of suspected insurance fraud. There are an innumerable number of theoretical provisions that could contravene the purposes of these regulations by inhibiting the flow of information regarding fraud and thus have a detrimental effect on this State's economy. This section holds a contractual SIU to the same standard as an internal SIU because a contract with disincentives to comply would not require as much of the SIU.

Proposed Section 2698.33(c)(3)

Proposed Section 2698.33(c)(3) makes specific the allowance for a contractual SIU in Section 1875.21 by prohibiting the inclusion of provisions that purport to relieve an insurer of any obligation to comply with the requirements of these regulations and the IFPA. This section helps maintain insurer compliance with these regulations because some provisions of these regulations apply to an insurer despite the existence of a contract. Under this section, an insurer cannot relieve itself of obligations under these regulations. Parties will use this section to help in their understanding of responsibilities under the regulations.

Proposed Section 2698.33(c)(4)

Proposed Section 2698.33(c)(4) makes specific the allowance for a contractual SIU in Section 1875.21 by requiring all SIU contracts to include a provision that requires the contracted entity to comply with all applicable provisions of the IFPA and these regulations. This section prevents an insurer from contravening its responsibilities pursuant to these regulations by contracting with a party who will not comply. By requiring the inclusion of this provision, a contracting entity is bound to comply with these regulations in the way that an insurer must.

Proposed Section 2698.34(a)

Proposed Section 2698.34(a) makes specific California Insurance Code Sections 1875.20-23 and clarifies the emergency regulations by requiring adequate communication by insurers and any entity performing SIU functions. California Insurance Code Section 1871 et seq., is applicable to a SIU. Specifically, Sections 1872.3, 1872.4, 1873, 1874.2, 1874.4, 1875.4, 1877.1, 1877.3,

1877.4, 1877.5 1879.5 provide statutory guidelines for communication with the Department and other authorized governmental agencies. This section thus provides necessary guidelines for communication.

Proposed Section 2698.34(b)(1)-(10)

Proposed Section 2698.34(b)(1)-(10) sets forth an inexhaustive list of the types of documents that an insurer may reasonably expect the Department or other authorized governmental agency to deem important and thus necessary to be delivered upon request. This section clarifies that insurers can expect their obligations to encompass the prompt delivery of certain documents, such as those listed. The deliverance of relevant documents increases the effective supervision of these regulations and the Department's understanding of the effectiveness of the regulations including where the regulations have failed or succeeded, and whether insurers are capable of complying with the regulations.

Proposed Section 2698.34(c)

Proposed Section 2698.34(c) clarifies that timely release of information means immediate, but no more than twenty-one calendar days after the request unless otherwise agreed to by the Fraud Division. This specification was not part of the emergency regulations but is necessary to make sure that all insurers have the same understanding of "timely."

Proposed Section 2698.34(d)

Proposed Section 2698.34(d) requires the designation of a contact person within a SIU for purposes of communication with the Department or other authorized governmental agencies. Allocation of communication duties to a single contact person will increase efficiency and prevent overlapping of compliance with Department requests or internal miscommunication.

Section 2698.34(d) also states that a single written request is sufficient to compel production of requested information. Under this section, a single written request would provide sufficient notice to the designated contact person because the establishment of a single contact person makes any more than a single request redundant and superfluous.

Proposed Section 2698.35(a)

Proposed Section 2698.35 sets forth regulations for the detection of suspected insurance fraud. The emergency regulations had similar requirements for the SIU to train anti-fraud personnel and made claims handlers responsible for identifying suspected insurance fraud. Proposed Section 2698.35(a) states that an insurer's integral anti-fraud personnel are responsible for identifying suspected insurance fraud and reporting it to the SIU as part of their regular duties. Integral anti-fraud personnel will often be in the best position to detect suspected insurance fraud. This section will increase effective communication between these types of personnel in order to better stop insurance fraud.

Proposed Section 2698.35(b)

Section 2698.35(b) requires written procedures for integral anti-fraud personnel identification, documentation, and referral of suspected insurance fraud to the SIU. The written procedures must also contain a list of red flags used to detect suspected fraud. This section allows for the detection of fraud and the Department's administration of these regulations. Under this section anti-fraud personnel will benefit from uniform guidelines that will result in consistent implementation of the regulations.

Proposed Section 2698.35(c)(1)-(5)

Sections 2698.35(c)(1)-(5) state that the procedures for detecting suspected insurance fraud shall provide for comparison of any insurance transaction against: patterns or trends of possible fraud; red flags; events or circumstances present on a claim; behavior or history of person(s) submitting a claim or application; and other criteria that may indicate possible fraud. This language informs insurers of the type of information necessary to gather in order to create working guidelines that foster effective detection of fraud by integral anti-fraud personnel. The list is inexhaustive because additional types of evidence may become indicative of fraud over a period of time or the importance of certain evidence might depend on the type of insurance.

Proposed Section 2698.36(a)(1)

Section 2698.36(a)(1) requires an investigation of suspected fraud to include a thorough analysis of a claim file, application, or insurance transaction. These documents are the source of the most information from the insured and could be the greatest indicator of misrepresentation or omission of a relevant fact. These documents can also be compared against any of the patterns of evidence suggesting insurance fraud listed in Section 2698.35(c). Insurers will use this section to assist in creating a complete investigative procedure.

Proposed Section 2698.36(a)(2)

Section 2698.36(a)(2) requires that an investigation of suspected insurance fraud include the identification and interviewing of potential witnesses who may provide information on the accuracy of the claim or application. This procedure allows for scrutiny of insured claims by examining others with knowledge that may be able to substantiate claims or provide evidence of actual fraud. Insurers will use this section to assist in creation a complete investigative procedure.

Proposed Section 2698.36(a)(3)

Section 2698.36(a)(3) requires that an investigation of suspected insurance fraud to include the utilization of industry-recognized databases. The use of databases is part of a complete investigation. Such databases provide another source of information by which to compare the claims of the insured. Insurers will use this section to assist in creating a complete investigative procedure.

Proposed Section 2698.36(a)(4)

Section 2698.36(a)(4) requires an investigation of suspected insurance fraud to include the preservation of documents and other evidence. The preservation of evidence allows for effective investigation by creating a record of what is known and allowing a comparison of that information to new information. The preservation of evidence also allows for comparison of suspected insurance fraud in one claim to suspected fraud in a later claim. The Department may also use this record for its own investigations. Insurers will use this section to assist in creating a complete investigative procedure.

Proposed Section 2698.36(a)(5)

Section 2698.36(a)(5) requires an investigation of suspected insurance fraud to include a concise and complete summary of the investigation including conclusions and their basis of findings. This section furthers the intent of creating an evolving understanding of what indicates suspected and actual fraud and the efficacy of the regulations. The preservation of summaries and conclusions helps create a pattern by which future investigations of suspected fraud will benefit. Insurers will use this section to assist in creating a complete investigative procedure.

This section slightly changes the emergency regulations by changing the last word from “conclusions” to “findings.” This word choice specifies that the regulations require the basis for findings leading up to the conclusion rather than just the basis for the ultimate conclusion.

Proposed Section 2698.37(a)

Proposed Section 2698.37(a) requires the referral of suspected insurance fraud to the Fraud Division, and as required, to district attorneys. Under this section, an insurer has a proactive obligation to refer suspected insurance fraud. What constitutes suspected insurance fraud is defined by these regulations at Section 2698.30(m). Moreover, Section 2698.37 requires a referral anytime there is a reasonable belief of insurance fraud. The purpose of this subsection is to clarify the fraud reporting obligations of an insurer.

Proposed Section 2698.37(b)

Proposed Section 2698.37(b) requires a referral anytime there is a reasonable belief of insurance fraud. This requirement improves communication by not allowing a party who reasonably believes there is fraud to wait for a request for this information. This section clarifies the standard for when referrals are necessary. Because the proposed section requires a “reasonable belief,” the insurer’s referral of suspected insurance fraud should be based on objective facts and rational inferences based on those facts. This wording matches that of California Insurance Code Section 1877.3, which sets forth the duty to report a reasonable belief that fraud has been committed.

Proposed Section 2698.37(c)

Proposed Section 2698.37(c) sets the time period in which insurers must refer suspected insurance fraud to the Fraud Division. Although not part of the emergency regulations, this section is needed to specify the period in which insurers must refer suspected insurance fraud. Proposed Section 2698.37(c) states that the referral shall be made within the period specified by statute. The IFPA provides different time limits for referrals at Sections 1872.4, 1874.2, and 1877.3. The time limits vary greatly depending on the basis for referral. This section refers to the California Insurance Code because the time period for the communications has already been determined by statute.

Proposed Section 2698.38(a)(1)-(2)

Section 2698.38(a) requires a referral to include the type of fraud and the type of referral. This information provides necessary guidance to insurers. These subsections inform insurers that the Department requires this information for an effective determination of whether actual fraud exists. The purpose of this requirement is that this specific information will narrow the investigative scope for the Department so that the referral can be properly filed and investigated correctly.

Proposed Section 2698.38(b)(1)-(6)

Proposed Section 2698.38(b) requires a referral to include reporting party information in a referral. This information provides necessary guidance to insurers. These subsections inform insurers that the Department requires this information for an effective determination of whether actual fraud exists. This specific information allows the Department to identify the reporting party and contact the reporting party for investigative purposes.

Proposed Section 2698.38(c)(1)-(4)

Proposed Section 2698.38(c) requires a referral to include alleged victim information. This information provides necessary guidance to insurers. These subsections inform insurers that the Department requires this information for an effective determination of whether actual fraud exists. This specific information allows the Department to identify and contact the alleged victim for investigative purposes.

Proposed Section 2698.38(d)(1)-(10)

Proposed Section 2698.38(d) requires a referral to include insurance policy or claim information, as appropriate in a referral. This information provides necessary guidance to insurers. This specific information provides the Department with an understanding of why a particular claim is suspected to be fraudulent. This crucial evidentiary record provides the appropriate leads to investigate in a determination of actual fraud.

This section changes the wording of the emergency regulations 2698.38(d)(9) from “suspicion” to “belief.” Pursuant to Section 2698.37(b), referrals are made when there is a “reasonable

belief” of insurance fraud. The regulations do not use the term “reasonable suspicion.” This section’s change of wording from the emergency regulations is necessary for consistency with existent case law regarding probable cause and related concepts.

Proposed Section 2698.38(e)(1)-(4)

Section 2698.38(e) requires a referral to include other agency referral information, as appropriate in a referral of suspected insurance fraud. The purpose of this subsection is that it provides necessary guidance to insurers. This specific information provides the Department with names of other persons or agencies that may be in the process of independent investigations. Inter-agency cooperation will lead to a more thorough and efficient investigation but is only possible if the Department is made aware of these additional referrals.

Proposed Section 2698.38(f)(1)-(4)

Section 2698.38(f) requires a referral to include other referral contact information, as appropriate. This information provides necessary guidance to insurers. The specific information required by this subsection provides the Department with contact information for other persons who may be in the process of independent investigations. Inter-agency cooperation will lead to a more thorough and efficient investigation but is only possible if the Department is made aware of the contact information for these referrals.

Proposed Section 2698.38(g)(1)-(13)

Section 2698.38(g) requires a referral to include information for each party associated with the referral. This information provides necessary guidance to insurers. This specific information would be compared to industry-recognized database records. The absence of this information would severely inhibit the Department’s investigation as well as the prevention of insurance fraud in the State of California.

Proposed Section 2698.39

This section has been renamed to better inform interested parties of the subject of the section. The new title now reads “Anti-Fraud Training”. This change revision to the emergency regulations was made to more accurately reflect the content of the section. The newly proposed section is no longer limited to SIU training. Subsection (c) within this section sets forth the three level of anti-fraud training.

Proposed Section 2698.39(a)

Proposed Section 2698.39(a) requires that the insurer establishes and maintains an ongoing anti-fraud training program that will develop the fraud-awareness skills of the integral anti-fraud personnel. This section furthers the purpose of the regulations in preventing insurance fraud. Continuous training raises fraud awareness and will allow integral anti-fraud personnel to adapt to changing patterns in insurance fraud. This requirement ensures that anti-fraud personnel will remain effective over time.

Proposed Section 2698.39(b)

Section 2698.39(b) requires that the insurer designate an SIU staff person to be responsible for coordinating the ongoing anti-fraud training program. The purpose of this subsection is to ensure that the insurer will create an adequate and effective staff. The allocation of coordination duties to a single SIU staff person will prevent confusion as to who is responsible for coordinating the training program and thus increase efficiency.

Proposed Section 2698.39(c)(1)(a)-(d)

Section 2698.39(c)(1)(a)-(d) sets forth the requirements for training of all new employees that must be completed within 90 days. This is the first of three levels of training under the regulations. This training covers the basic overview of fraud detection, what the SIU is and the way the SIU functions. This type of training is reasonably necessary for all employees because they are likely to deal with information that should be forwarded to the SIU or integral anti-fraud personnel. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(2)(a)

Section 2698.39(c)(2) is the second level of training and sets forth the subject matter for integral anti-fraud personnel in-service training. Section 2698.39(c)(2)(a) requires review of the function and purpose of the SIU. This section ensures that the anti-fraud personnel are aware of what the SIU's purpose is so that the personnel can effectively interact with the SIU. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(2)(b)

Proposed Section 2698.39(c)(2) is the second level of training and sets forth the subject matter for integral anti-fraud personnel in-service training. Part of the responsibilities of anti-fraud personnel will be to direct suspected fraud claims to the SIU. Section 2698.39(c)(2)(b) requires the introduction or review of the written procedures established by the SIU. This section ensures that anti-fraud personnel are knowledgeable about how to effectively cooperate with the SIU. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(2)(c)

Section 2698.39(c)(2) is the second level of training and sets forth the subject matter for integral anti-fraud personnel in-service training. Section 2698.39(c)(2)(c) requires the identification of red flags and red flag events. Red flags are a common element among multiple fraud cases, the recognition of which makes the investigation of fraud more efficient. This section ensures anti-fraud knowledge and consistency. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(2)(d)

Proposed Section 2698.39(c)(2) is the second level of training and sets forth the subject matter for integral anti-fraud personnel in-service training. Section 2698.39(c)(2)(d) requires training on any changes to current procedures. This section is necessary because as fraud patterns change, procedures for detecting and documenting fraud must also change in order to be effective. Under this section anti-fraud personnel will be uniformly trained on these procedures in order to avoid miscommunication that would otherwise result between the SIU and the anti-fraud personnel. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(2)(e)

Section 2698.39(c)(2) is the second level of training and sets forth the subject matter for integral anti-fraud personnel in-service training. Section 2698.39(c)(2)(e) requires training on Fraud Division insurance reporting requirements. This section ensures compliance with the reporting requirements within these regulations. Without this section, anti-fraud personnel might not understand the reporting provisions, including the time period in which referrals must be made. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(2)(f)

Section 2698.39(c)(2) is the second level of training and sets forth the subject matter for integral anti-fraud personnel in-service training. Section 2698.39(c)(2)(f) requires training on existing and new, emerging insurance fraud trends. This section ensures that anti-fraud personnel are trained to deter insurance fraud despite the fact that the patterns it creates may change over time. Without this requirement, anti-fraud personnel may become ineffective due to lack of knowledge. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(3)(a)

Section 2698.39(c)(3) is the third level of training and sets forth the subject matter for continuing SIU personnel training. Section 2698.39(c)(3)(a) requires training on investigate techniques. This section ensures that SIU personnel will be trained to investigate suspected insurance fraud properly. Without continuing training on investigative techniques, SIU personnel may become ineffective over time or unfamiliar with current trends. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(3)(b)

Section 2698.39(c)(3) is the third level of training and sets forth the subject matter for continuing SIU personnel. Section 2698.39(c)(3)(b) requires training on communication with the Fraud Division and authorized governmental agencies. This section helps maintain insurer compliance with these regulations. Without this requirement, SIU personnel might not understand the requirements for communication and referrals, including time periods in which communications and referrals must be made. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(3)(c)

Section 2698.39(c)(3) is the third level of training and sets forth the subject matter for continuing SIU personnel. Section 2698.39(c)(3)(c) requires training on fraud indicators. This section thus requires that SIU personnel are knowledgeable of “red flags.” If SIU personnel are unfamiliar with fraud indicators, their reports on fraud will be inconsistent, their investigations will be inefficient, and much fraud will go undetected.

Proposed Section 2698.39(c)(3)(d)

Section 2698.39(c)(3) is the third level of training and sets forth the subject matter for continuing SIU personnel. Section 2698.39(c)(3)(d) requires training on emerging fraud trends. This section ensures that SIU personnel will detect and deter insurance fraud despite the fact that the patterns it creates may change over time. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(c)(3)(e)

Section 2698.39(c)(3) is the third level of training and sets forth the subject matter for continuing SIU personnel. Section 2698.39(c)(3)(d) requires training on legal and related issues. This section ensures that SIU personnel have an understanding of the legal context in which they are performing their job duties. Rather than existing in a vacuum, there are legal implications for many of SIU job decisions and functions and for the information that SIU personnel receive. Insurers are in the best position to determine exactly what legal issues SIU personnel need to know to effectively perform their function in furtherance of the purposes of these regulations and the IFPA because what constitutes a relevant legal issue depends on the context of the function being performed. Insurers will use this section to help create their training programs.

Proposed Section 2698.39(d)

Section 2698.39(d) sets forth requirements for the preservation anti-fraud training records. This section allows the Department to oversee training programs and to ensure that personnel receive the appropriate training. Preservation of these records may also be used to determine compliance with other provisions of these regulations. Insurers will use this section to help create their training programs.

Proposed Section 2698.40(a)

Proposed Section 2698.40(a) requires insurers to report annually to the Department and sets the time period for this process. Previous regulatory attempts at preventing insurance fraud in the State of California have been unsuccessful. An annual report that includes information relevant to these regulations will help maintain compliance and the detection and deterrence of fraud.

Proposed Section 2698.40(b)(1)-(2)

Proposed Section 2698.40(b)(1) requires an insurer's annual report to include the names, titles and contact information of the insurer's SIU personnel or the name of the organization and organizational contacts with whom the insurer has contracted for the maintenance of the SIU or any function thereof. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section adds requirements to the annual report so the Department may verify the SIU's existence and contact them if necessary. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(3)

Proposed Section 2698.40(b)(3) requires insurers to include in their annual report the names of personnel whose duties include communication with the Fraud Division on matters relating to suspected insurance fraud. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section adds the requirement that the report inform the Department of the names of an insurer's staff that they should be dealing with. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(4)

Proposed Section 2698.40(b)(4) requires insurers to include in their annual report a description of methods and written procedures for the detection, investigation and reporting of insurance fraud. Previous regulatory attempts at deterring and detecting insurance fraud proved inadequate. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. This information not only shows compliance but also educates the Department as to which methods of detection and investigation are effective in preventing insurance fraud. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(5)

Proposed Section 2698.40(b)(5) requires insurers to include in their annual report a description of the insurer's plan for initial and on-going fraud education and training for integral anti-fraud personnel. Previous regulatory attempts at deterring and detecting insurance fraud proved inadequate. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. This information not only shows compliance but also educates the Department as to which methods of detection and investigation are effective in preventing insurance fraud. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(6)

Proposed Section 2698.40(b)(6) requires insurers to include in their annual report a written description or chart outlining the organizational arrangement of the insurer's anti-fraud personnel. Previous regulatory attempts at deterring and detecting insurance fraud proved inadequate. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. This information not only shows compliance with these regulations but also educates the Department as to effective arrangements of personnel. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(7)

Proposed Section 2698.40(b)(7) requires insurers to include in their annual report a description of how the SIU is adequately staffed to meet the requirement herein and the expertise of the staff. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section assists the Department's effective administration of these regulations by ensuring that the proposed regulations are being followed and that they are deterring and detecting fraud. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(8)

Proposed Section 2698.40(b)(8) requires insurers to include in their annual reports the number of claims processed by the insurer and the number of claims referred to the SIU, for each reported company, for the past calendar year. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. This information relates to whether an insurer's staff is adequate. A significant amount of fraud activity will suggest that a larger SIU is necessary to effectively comply with these regulations. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(9)

Proposed Section 2698.40(b)(9) requires insurers to include in their annual report the number of suspected insurance fraud reported to the Department and to district attorney offices, for each reported company, for the past calendar year. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. This information relates to whether an insurer's staff is adequate. A significant amount of fraud activity will suggest that a larger SIU staff is necessary to effectively comply with these regulations. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(10)

Proposed Section 2698.40(b)(10) requires insurers to include in their annual report a description of any significant, anticipated changes to the insurer's operations. Previous regulatory attempts at deterring and detecting insurance fraud proved inadequate. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(b)(11)

Proposed Section 2698.40(b)(11) requires insurers who contract for compliance with these regulations to provide a copy of that contract in their annual report. Previous regulatory attempts at deterring and detecting insurance fraud proved inadequate. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. The insurer shall decide the appropriate manner of monitoring the contract because it is a contextual decision based upon the terms of the parties' contract. Purpose of this section is that it enable insurer to understand what should be in the annual report to the Department.

This section differs from the emergency regulations in that it replaces the words "CIC Section 1875.20 et seq." with the words "these regulations." This change clearly provides that the requirements under these regulations apply under this section.

Proposed Section 2698.40(b)(12)

Proposed Section 2698.40(b)(12) requires that insurers include in their annual report the number and type of civil actions initiated by each reported company alleging acts of insurance fraud during the preceding calendar year. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section assists in the Department's effective administration of these regulations by ensuring that the proposed regulations are being followed and that they are deterring and detecting fraud. In conjunction with other evidence, this information could suggest that fraud is slowing or decreasing or how well the insurer is detecting fraud. Insurers will use this section to understand what should be in the annual report to the Department.

Proposed Section 2698.40(c)

Proposed Section 2698.40(c) requires the signing and attestation of the report by an officer of the holder of or applicant for the Certificate of Authority. Previous insurer reporting proved inadequate for the Department to have a complete understanding of the insurance industry's compliance with the regulations and the effect the regulations had on insurance fraud. This section ensures that the proposed regulations are being followed and that they are deterring and detecting fraud. Although the emergency regulations required this certification for a license renewal, it was not specifically attached to the annual report. This certification will specifically

verify the accuracy of the report. The purpose of this subsection is to clarify and inform insurers regarding what should be contained in the annual report to the Department.

Proposed Section 2698.40(d)

Proposed Section 2698.40(d) requires insurers to retain a copy of the annual report for review. In order to ensure that the proposed regulations are being followed and that they are deterring and detecting fraud the Department must have a record of past reports. The preservation of these records reveals patterns of insurance fraud and allows for a determination of what detection and investigation methods are most effective. The purpose of this subsection is to clarify what should be contained in the annual report to the Department.

Proposed Section 2698.40(e)

Proposed Section 2698.40(e) states that the names of the insurer's personnel who will communicate with the Fraud Division shall not be made part of the public record and shall be released only according to California Insurance Code Section 1873.1. Section 1873.1 allows for disclosure of this information only when required in connection with a criminal or civil proceeding. This section is necessary to further clarify and elucidate an insurer's fraud reporting obligations.

Proposed Section 2698.41(a)

Proposed Section 2698.41(a) permits the commissioner to conduct an examination of an insurer's SIU. This section is consistent with California Insurance Code Section 730(a), which permits the commissioner to examine an insurer whenever he or she deems necessary. Although an examination will not necessarily occur, the ability of the commissioner to examine the SIU's operations encourages compliance with these regulations and furthers the goal of preventing insurance fraud.

Proposed Section 2698.41(b)

Proposed Section 2698.41(b) provides that an insurer will be given a written report of the examination including identification of violations of these regulations and the required corrective actions. This section will improve compliance by informing insurers how to improve their operations and thus further the goal of preventing insurance fraud.

Proposed Section 2698.41(c)(1)

Proposed Section 2698.41(c)(1) provides that an insurer will have thirty days to reply to a report identifying violations of these regulations with a plan demonstrating how the insurer will achieve compliance. Failure to supply the Department with such a plan would be a violation of these regulations. This section encourages compliance with these regulations and thus furthers the goal of preventing insurance fraud.

Proposed Section 2698.41(c)(2)(A)

Proposed Section 2698.41(c)(2)(A) allows any insurer submitting a corrective plan pursuant to Section 2698.41(c) to include any written material that may rebut any matters contained in the examination report. This section was not part of the emergency regulations but addresses the concern of noncompliance. This section allows review of findings made in the examination by the Department. Insurers will be able to use this section to raise questions and concerns for findings and to rebut evidence brought against them.

Proposed Section 2698.41(c)(3)

Proposed Section 2698.41(c)(3) allows the commissioner to consider any rebuttal information in determining whether a penalty should be assessed, and if so, in what amount. This section was not part of the emergency regulations but is reasonably necessary to allow the commissioner to review findings made in the examination. This section allows review of findings made in the examination by the Department. Insurers will be able to use this section to raise questions and concerns for findings and to rebut evidence brought against them.

Proposed Section 2698.42(a)

Proposed Section 2698.42(a) allows the Commissioner to impose sanctions for violation of these regulations and/or California Insurance Code Section 1875.20-23. This section enforces these regulations and the underlying Insurance Code. This section acts as both an incentive to comply and a punishment for non-compliance.

Proposed Section 2698.42(b)

Proposed Section 2698.42(b) provides that each act in violation of these regulations will subject the insurer to a penalty of not more than \$55,000 and/or suspension or revocation of the insurer's Certificate of Authority. This section clarifies possible statutory sanctions for non-compliance with these regulations. The penalties set forth are consistent with the existent statutory penalties set forth at California Insurance Code Sections 704 and 704.7 and clarifies that other statutory penalties may also apply.

MANDATES

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING:

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government

Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE:

The Commissioner has made an initial determination that the proposed regulations do not have a significant, statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES:

The Commissioner has made an initial determination that a representative private person or small business may incur additional expenses as a result of these regulations. These expenses may include the value of time spent by insurers in training, the cost of creating or contracting for a SIU, and the value of time spent communicating with authorized governmental agencies.

FINDING OF NECESSITY:

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA:

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS:

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES:

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON SMALL BUSINESS:

The Commissioner has determined that small businesses may incur additional expenses as a result of these regulations. These expenses may include the value of time spent by adjusters in training regarding these regulations as well as the value of time spent by adjusters traveling to and from training facilities.

COMPARABLE FEDERAL LAW:

There are no existing federal regulations or statutes comparable to the proposed regulations.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed adoption of the regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING:

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS:

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find in the leftmost column the link entitled 'Legal.' Click on it. On the 'Legal' page select the 'Proposed Regulations' link, near the top of the page. When the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "RH01018047" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "1875.20"), or

search by keyword ("special investigation unit"). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the Special Investigations Unit link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE:

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

Dated:

JOHN GARAMENDI
Insurance Commissioner

By

RICHARD G. KRENZ
Assistant General Counsel